

MINUTES
SCOTTSDALE CITY COUNCIL
SPECIAL MEETING
Monday, October 27, 2003

**The Kiva
City Hall
Scottsdale, Arizona**

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CALL TO ORDER

Mayor Manross called to order a Special Meeting of the Scottsdale City Council on Monday, October 27, 2003 in the Kiva, City Hall, at 4:05 P.M.

Present: Mayor Mary Manross
Vice Mayor Wayne Ecton
Council Members David Ortega, Tom Silverman, Robert Littlefield, and Ned O'Hearn

Also Present: City Manager Jan Dolan
City Attorney Brad Woodford
City Clerk Carolyn Jagger

1. Short presentation of status of superior court case: Stop'em v. Sonia Robertson, et. al, CV 2003-015579 (Los Arcos). Contact: Brad Woodford, 480-312-2405, (bwoodford@scottsdaleaz.gov)

Attorney Woodford explained that Council must decide if the city should appeal the October 21st superior court ruling in the Stop'em V. Sonia Robertson. et. al. case.

In response to questions from Councilman O'Hearn, Attorney Woodford explained that Council should vote on the appeal to eliminate assumptions.

2. MOTION TO RECESS INTO EXECUTIVE SESSION for:
Discussion or consultation with the City's attorneys for legal advice and to consider its position and instruct its attorneys regarding the City's position in Stop'em v. Sonia Robertson, et. al, CV 2003-015579 (Los Arcos A.R.S. 38-431.03 (A)(3) and (A) (4)).
Contact: Brad Woodford, 480-312-2405, (bwoodford@scottsdaleaz.gov).

Attorney Woodford noted that there is a vacancy on Council due to the resignation of Councilwoman Lukas. He explained that he is prepared to provide legal advice to Council in Executive Session since there is no specific procedure outlined in the City's Charter to replace a Council member.

COUNCILMAN ORTEGA MOVED TO RECESS INTO EXECUTIVE SESSION.
COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 6/0.

Recess Special Meeting

Council recessed into Executive Session at 4:19 P.M.

Reconvene Special Meeting

Immediately following above executive session

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Blvd.

Mayor Manross reconvened the Special Meeting of the Scottsdale City Council on Tuesday, October 27, 2003 in the Kiva, City Hall, at 5:02 P.M.

Public Comment

Lyle Wurtz, 6510 E. Palm Lane, spoke in opposition to the city eliminating the Coronado Golf Course.

4. Consider appeal of Court ruling in Stop'em v. City of Scottsdale, CV 2003-015579 (Los Arcos). Contact: Brad Woodford, 480-312-2405, (bwoodford@scottsdaleaz.gov)

City Attorney Woodford identified this item as an opportunity for Council to consider appealing the recent superior court decision in the Stop'em v. City of Scottsdale case. The lawsuit was to determine whether or not the Los Arcos Development Agreement was referable. He explained that, by law, there is only ten days for a losing party to file a notice of appeal to the State Court of Appeals from the time the judge signs the judgment. Previous court cases have ruled that the City Council must publicly vote in order to process an appeal.

Mayor Manross opened public testimony.

Lou Schmitt, 8525 E. Mulberry, urged Council to accept the superior court's decision rather than supporting an appeal.

Nona Oliver, 6908 E. Portland, explained that she doesn't support the current proposal for the Los Arcos property. She noted that she would like to see a park on the property, along with small retail shops and/or restaurants.

Rick Kidder, 3574 E. Pleasant Run, spoke on behalf of the Scottsdale Area Chamber of Commerce. He noted that the Chamber has been on record opposing the project since its inception and urged Council to allow the issue to be placed on the ballot.

Mayor Manross closed public testimony.

COUNCILMAN ORTEGA MOVED **NOT** TO APPEAL THE SUPERIOR COURT'S JUDGMENT.
COUNCILMAN LITTLEFIELD SECONDED THE MOTION WHICH CARRIED 6/0.

5. Discussion and possible direction regarding appointment procedures for filling a vacancy on the Scottsdale City Council. Contact: Brad Woodford, 480-312-2405, (bwoodford@scottsdaleaz.gov)

Mayor Manross explained that the vacancy to be filled was due to Councilwoman Lukas' resignation on Friday.

Attorney Woodford explained that it is incumbent upon the remaining Council members to fill the vacancy within 31 days. It is necessary for Council to set forth a procedure to accomplish the task. He noted that staff has developed a framework that Council could choose to adopt, revise, or reject.

Attorney Woodford reminded Council that: 1) Council must fill the vacancy by November 24, 2003, 2) the appointment requires at least four Council votes, 3) the candidate who fills the vacancy must meet the current City Charter requirements. The appointment term will run from the time of appointment through the date the newly elected members are seated on Council, which would be the first Council meeting after June 1, 2004. He noted that Council could seek applications made available through the Internet or the Clerk's Office, and emphasized that a deadline for receipt of applications must be specified. Council should consider if interviews are to be conducted and, if so, in what manner.

Attorney Woodford explained that his office has created a procedure that Council could adopt to nominate and appoint a new Council member. He outlined the nomination process, stating that each Council member could nominate one applicant, if they so desired, and would have one vote. If at any time, a nominee receives four Council votes, the nominee would be appointed to fill the vacancy. If a person does not receive four votes, he suggested that the voting proceed by eliminating the nominees receiving the least votes. In the event of a tie, there would be a drawing by lot, eliminating the nominee whose name was drawn. This procedure would continue until a nominee is appointed.

In response to questions from Councilman O'Hearn, Attorney Woodford explained that nominations would not count as votes.

Councilman Ortega suggested making the application form available on the Internet or at the City Clerk's Office, and having a deadline of November 11th for receipt of the applications to allow sufficient time to consider the applicants for nomination.

Vice Mayor Ecton clarified that a citizen could apply for the vacancy whether or not the citizen is a candidate for Council in the next election.

Councilman Littlefield suggested shortening the deadline for submitting an application, thereby lengthening the time the public would have to scrutinize the applicants. He expressed discomfort in voting on the applicants on November 24th, since a Council member will be absent and it is the ultimate deadline for filling the vacancy. He stated his belief that Council will have plenty of opportunity to scrutinize the applicants without conducting public interviews.

Mayor Manross expressed her support of agendizing the appointment for the week of November 17th.

Councilman Ortega expressed support for a November 7th deadline for submitting applications. He felt the question of interviews could remain open-ended at this time.

Councilman Silverman agreed with the November 7th deadline. He stated his belief that formal interviews aren't necessary.

Councilman O'Hearn supported November 7th as the deadline for applications. He noted that no formal interviews are necessary since Council is free to individually interview applicants.

COUNCILMAN LITTLEFIELD MOVED TO DIRECT THAT APPLICANTS USE THE STANDARD BOARDS AND COMMISSIONS APPLICATION WITH THE DEADLINE FOR SUBMITTAL OF APPLICATIONS SET FOR 5:00 P.M. ON NOVEMBER 7, 2003, AND AGENDIZE THE APPOINTMENT FOR THE WEEK OF NOVEMBER 17TH. COUNCILMAN ORTEGA SECONDED THE MOTION WHICH CARRIED 6/0.

Councilman Ortega clarified that Council is not prohibiting applicants from including a letter of interest with their application, although it is not required.

COUNCILMAN LITTLEFIELD MOVED TO ACCEPT THE DRAFT PROCEDURE FOR NOMINATION AND APPOINTMENT TO FILL A VACANCY ON COUNCIL AS PRESENTED BY ATTORNEY WOODFORD. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 6/0.

Public Comment - None

City Manager's Report - None

Mayor and Council Items

Councilman Ortega requested reconsideration of the city's fees for youth sports as recently enacted by Council, particularly as it impacts Little League.

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 5:40 P.M.

SUBMITTED BY:

Ann Eyerly, Council Recorder

REVIEWED BY:

Carolyn Jagger, City Clerk

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Special Meeting of the City Council of Scottsdale, Arizona held on the 27th day of October 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 3rd day of November 2003.

CAROLYN JAGGER
City Clerk